

VIRGINIA:

IN THE CORPORATION COURT, FOR THE CITY OF LYNCHBURG

NOV 29 1957

FIRST NATIONAL TRUST & SAVINGS BANK, Trustee
u/w of Louise J. Smith, Deceased

Petitioner

vs.)
)
) ORDER, November Term, 1957

RANDOLPH-MACON WOMAN'S COLLEGE

Respondent

This cause came on this day to be heard upon the petition of the First National Trust & Savings Bank, Trustee u/w of Louise J. Smith, deceased, and the answer of the respondent, Randolph-Macon Woman's College, heretofore filed in the Clerk's Office of this Court, upon the depositions of Harriet Fitzgerald and Mary J. Williams, duly taken pursuant to notice and likewise filed in said Clerk's Office and upon the certified copy of the will of Louise J. Smith, this day filed by leave of Court, and by consent of parties by counsel, and was argued by counsel.

And it appearing to the Court that the petitioner trustee has, since the death of Louise J. Smith in 1928, set up the trust fund contemplated by Item IX of her will and from time to time has authorized the expenditure of the income arising therefrom for the purchase every second year of a work of art, approved by the expert judges, as prescribed by said will;

And it appearing to the Court from the depositions aforesaid that due to a change in conditions that could not have been foreseen by the Testatrix it is practically impossible for the Trustee to purchase the real works of art, contemplated by the will aforesaid, and thus to effectuate the intent and purpose of the Testatrix in providing a permanent collection of art for the respondent college; and

The Court being of the opinion from the depositions aforesaid that owing to circumstances not known to the Testatrix and not anticipated by her a compliance with the terms of said trust, for the expenditure of income accumulated for two years for the purchase of one work of art, without the ability to spend a larger or smaller amount or to acquire such works of art at longer or shorter periods than contemplated by the said will would defeat the accomplishment of the purpose of the trust and make it impossible for the respondent college to acquire the real works of art specified by the Testatrix and that to accomplish such purposes the Trustee should be authorized to approve the purchase of a work of art costing less than the amount of biennial income or a work of art costing more than such amount, and at intervals varying from the two-year period provided in said will;

The Court doth ADJUDGE, ORDER and DECREE that in order to effectuate the plan and purpose of the Testatrix and to make it possible to acquire works of art of the high standard of excellence prescribed by the trust aforesaid the TRUSTEE BE AND IT IS HEREBY AUTHORIZED to purchase works of art, approved in accordance with the will of Louise J. Smith, costing less than the biennial income from the trust fund aforesaid, and from time to time to accumulate said income for a length of time reasonably in excess of the two year period and to purchase works of art, of similar high standards of excellence, costing in excess of the biennial income aforesaid.

And the objects of this proceeding having been accomplished it is ordered that the same be stricken from the docket.

We consent to the entry of the foregoing order:

B.H. Williams
 Attorney for First National Trust & Savings Bank, Trustee u/w of Louise J. Smith, Deceased.

R. Walters
 Attorney for Randolph-Macon Woman's College

NOV 29 1957 *Enter 11-29-57*
S. J. M.
 -2- *Comp Ct. Chy. O.R. 22 p. 251.*